

any two lots of fruit from the same orchard during the same shipping season, that orchard will be removed from the export program for the remainder of that shipping season.

(g) *Cold treatment.* Clementines must be cold treated in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at §300.1 of this chapter. Upon arrival of clementines at a port of entry into the United States, APHIS inspectors will examine the cold treatment data for each shipment to ensure that the cold treatment was successfully completed. If the cold treatment has not been successfully completed, the shipment will be held until appropriate remedial actions have been implemented.

(h) *Port of entry sampling.* Clementines imported from Spain are subject to inspection by an inspector at the port of entry into the United States. At the port of first arrival, an inspector will sample and cut clementines from each shipment to detect pest infestation according to sampling rates determined by the Administrator. If a single live Mediterranean fruit fly in any stage of development is found, the shipment will be held until an investigation is completed and appropriate remedial actions have been implemented.

(i) *Limited distribution.* For the 2002–2003 shipping season, clementines from Spain may not be imported into, or distributed within, the following U.S. States and Territories: Arizona, California, Florida, Louisiana, Texas, Puerto Rico, the U.S. Virgin Islands, the Northern Mariana Islands, Guam, or American Samoa.

(j) *Suspension of program.* If APHIS determines at any time that the safeguards contained in this section are not protecting against the introduction of Medflies into the United States, APHIS may suspend the importation of clementines and conduct an investigation into the cause of the deficiency.

(k) *Definitions.*

Lot. A number of units of clementines that are from a common origin (i.e., a

single producer or a homogenous production unit¹²).

Orchard. A plot on which clementines are grown that is separately registered in the Spanish Medfly management program.

Shipment. (1) *Untreated fruit.* For untreated fruit, the term means one or more lots (containing no more than a combined total of 200,000 boxes of clementines) that are presented to an APHIS inspector for pre-treatment inspection.

(2) *Treated fruit.* For treated fruit, the term means one or more lots of clementines that are imported into the United States on the same conveyance.

Shipping season. For the purposes of this section, a shipping season is considered to include the period beginning approximately in mid-September and ending approximately in late February of the next calendar year.

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[67 FR 64738, Oct. 21, 2002, as amended at 68 FR 37922, June 25, 2003]

§ 319.56–2kk Persimmons from the Republic of Korea.

Persimmons (fruit) (*Disopyros khaki*) may be imported into the United States from the Republic of Korea only under the following conditions:

(a) The production site, which is an orchard, where the persimmons are grown must have been inspected at least once during the growing season and before harvest for the following pests: *Conogethes punctiferalis*, *Planococcus kraunhiae*, *Stathmopoda masinissa*, and *Tenuipalpus zhizhilashiviliae*;

(b) After harvest, the persimmons must be inspected by the Republic of Korea's national plant protection organization (NPPO) and found free of the pests listed in paragraph (a) of this section before the persimmons may be shipped to the United States;

(c) Each shipment of persimmons must be accompanied by a phytosanitary certificate issued by the

¹² A homogeneous production unit is a group of adjacent orchards in Spain that are owned by one or more growers who follow a homogenous production system under the same technical guidance.

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Republic of Korea's NPPO stating that the fruit is free of *Conogethes punctiferalis*, *Planococcus kraunhiae*, *Stathmopoda masinissa*, and *Tenuipalpus zhizhilashiviliae*.

(d) If any of the pests listed in paragraph (a) of this section are detected in an orchard, exports from that orchard will be canceled until the source of infestation is determined and the infestation is eradicated.

(Approved by the Office of Management and Budget under control number 0579-0210)

[68 FR 37922, June 25, 2003]

§ 319.56-3 Applications for permits for importation of fruits and vegetables; issuance of permits.

(a) *Permit required.* Except for fruits or vegetables that may be imported under the general permit provided in § 319.56-2(b), (c), and (d) or for fruits and vegetables imported under an oral permit in accordance with paragraph (d) of this section, no fruits or vegetables may be imported unless a specific written permit has been issued for the fruits or vegetables and unless the fruits or vegetables meet all other applicable requirements of this subpart and any other requirements specified by APHIS in the specific written permit.

(b) *Applying for a specific written permit.* Applications must be submitted in writing or electronically and should be made in advance of the proposed shipment and provided to the Plant Protection and Quarantine program.¹³ Applications must include the country or locality of origin of the fruits or vegetables, the port of first arrival, the name and address of the importer in the United States, and the identity and quantity of the fruit or vegetable.

(c) *Issuance of permits.* If APHIS approves the application, APHIS will issue a permit specifying the condi-

¹³Application for permits to import fruit and vegetables under this subpart may be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 136, Riverdale, MD 20737-1236; on the Internet using the APHIS Import Authorization System, <https://Web01.aphis.usda.gov/IAS.nsf/>; or by fax (301) 734-5786.

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tions applicable to the importation of the fruit or vegetable.

(d) *Issuance of oral permits.* Oral permits may be issued for noncommercial shipments if the commodity is admissible with inspection only. Oral permits may be issued for commercial shipments of fruits and vegetables arriving in the United States without a specific written permit if all applicable entry requirements are met and proof of application for a specific written permit has been supplied to an inspector.

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[68 FR 37922, June 25, 2003]

§ 319.56-4 Amendment, denial, or withdrawal of permits.

(a) The Administrator may amend, deny, or withdraw a permit at any time if he or she has determined that conditions exist that present an unacceptable risk of the fruit or vegetable introducing quarantine pests into the United States. If the withdrawal is oral, the withdrawal of the permit and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances permit.

(b) Any person whose permit has been amended, denied, or withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the decision. The appeal must state all of the facts and reasons upon which the person relies to show that the permit was wrongfully amended, denied, or withdrawn. The Administrator will grant or deny the appeal, in writing, stating the reasons for granting or denying the appeal as promptly as circumstances permit. If there is a conflict as to any material fact and the person who has filed an appeal requests a hearing, a hearing shall be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. A permit withdrawal will remain in effect pending resolution of the appeal or the hearing.

[68 FR 37922, June 25, 2003]